

Zachary M. Best, SBN 166035  
Tanya E. Moore, SBN 206683  
MOORE LAW FIRM, P.C.  
332 North Second Street  
San Jose, California 95112  
Telephone: (408) 298-2000  
Facsimile: (408) 298-6046  
Email: service@mission.legal

Attorneys for Plaintiff,  
Francisca Moralez

Wendy L. Wilcox, SBN 193644  
Michelle S. Tamkin, SBN 158804  
SKANE WILCOX, LLC  
1055 W. 7th Street, Suite 1700  
Los Angeles, California 90017  
Telephone: (213) 452-1200  
Facsimile: (213) 452-1201  
Email: [wwilcox@skanewilcox.com](mailto:wwilcox@skanewilcox.com)  
[mtamkin@skanewilcox.com](mailto:mtamkin@skanewilcox.com)

Attorneys for Defendant,  
Power Supply Collective, Inc.  
dba Mypowersupply.com

**UNITED STATES DISTRICT COURT**  
**NORTHERN DISTRICT OF CALIFORNIA**

FRANCISCA MORALEZ,

Plaintiff,

vs.

POWER SUPPLY COLLECTIVE, INC. dba  
MYPOWERSUPPLY.COM, et al.,

Defendants.

No. 3:17-cv-00634-CRB

**JOINT REPORT ON PARTIES'  
PROPOSALS FOR POWER SUPPLY'S  
WEBSITE AS ORDERED BY THE  
COURT (Dkt. 90)**

JOINT REPORT ON PARTIES' PROPOSALS FOR POWER SUPPLY'S WEBSITE AS ORDERED BY THE  
COURT (Dkt. 90)

At the November 9, 2018 Case Management Conference, the Court ordered the parties to draft and exchange proposals for revisions to Defendant Power Supply Collective, Inc. dba mypowersupply.com's ("Power Supply's") website for customers with a disability to have food orders placed on a certain level of Power Supply's self-service refrigerator, and to offer comments as to each other's submissions. (Dkt. 90.) The parties were further ordered to submit a joint report to the court by January 18, 2019, if they were able to reach agreement regarding the website; otherwise a Case Management Conference would be held on that date. (The court later continued the Case Management Conference to January 25, 2019.)

After exchanging proposals, the parties have agreed that Power Supply's website will be changed as follows:

1. The website will show a global handicapped icon in the ordering process, which will display the following accessibility option checkboxes:
  - A. A checkbox for delivery to a refrigerator shelf between 15-48" high, and
  - B. A checkbox for customers who need handles added to the packaged meals.
2. Language will be added to the gym location pickup selection dialogue explicitly stating that the locations are self-service.

**Plaintiff's Further Report:**

The proposal Plaintiff sent to Power Supply in early December 2018 to resolve her equitable claim included the further requirement that Power Supply implement policies and procedures to ensure that the meals a patron requests be located within the described reach ranges via the website are in fact placed there by Power Supply's third-party delivery partners. Plaintiff further requires an enforceable written agreement between the Parties (or an injunction), a request Power Supply has not agreed to. It is Plaintiff's position that even if Power Supply were to modify its website today as suggested, there is nothing that will ensure that it maintains that feature (given it has denied there is any legal requirement that it do so), or

1 that the meals ordered will actually be placed within the reach ranges. Thus, the above  
2 “proposal” alone does not resolve Plaintiff’s ADA claim.

3 While the parties agree on the website language, the proposal does not in any manner  
4 resolve Plaintiff’s equitable claim under the Americans with Disabilities Act (“ADA”) because  
5 it is not a complete resolution, and Power Supply has not agreed to be contractually bound to  
6 the agreement. Similarly, no agreement has been reached on Plaintiff’s pendent state claim for  
7 damages because Power Supply denies that it violated the ADA or the California Unruh Civil  
8 Rights Act. And no agreement has been reached as to Plaintiff’s claim for attorneys’ fees and  
9 costs.

10  
11 **Defendant’s Response:**

12 Defendant Power Supply has informed Plaintiff that the Court instructed the parties to  
13 focus on the website issue at present and address any remaining issues thereafter. Power  
14 Supply therefore believes that Plaintiff’s “Further Report” addresses items outside those  
15 ordered by the Court. However, Power Supply did not violate the ADA, and Plaintiff is not  
16 entitled to statutory damages or attorney fees and costs. Power Supply further states that it  
17 welcomes all customers including those with disabilities, it has a history of implementing  
18 disabled customers’ requests for accommodations, and will continue to do so. Plaintiff’s fears  
19 that Power Supply will not maintain the changes to its website or comply with requests to place  
20 meals on shelves within reach ranges are unfounded and not based on any evidence. Plaintiff  
21 never requested any accommodation from Power Supply, and has no basis for implying that  
22 Power Supply would ignore requests that are actually made.

23  
24 Dated: January 18, 2019

MOORE LAW FIRM, P.C.

25 /s/ Tanya E. Moore

26 Zachary M. Best

Tanya E. Moore

27 Attorneys for Plaintiff,

28 Francisca Moralez

1 Dated: January 18, 2019

SKANE WILCOX, LLC

2 /s/ Michelle S. Tamkin

3 Wendy L. Wilcox

Michelle S. Tamkin

4 Attorneys for Defendant,

5 Power Supply Collective, Inc. dba

Mypowersupply.com

6 **ATTESTATION**

7  
8 Concurrence in the filing of this document has been obtained from each of the individual(s)  
9 whose electronic signature is attributed above.

10 /s/ Tanya E. Moore

11 Tanya E. Moore

12 Attorney for Plaintiff,

13 Francisca Moralez